

AARON RUBENSTEIN,

Plaintiff,

v.

**RICHARD N. AZAR, II, RAD2
MANAGEMENT, LLC, RAD2 MINERALS,
LTD., and SEGUNDO RESOURCES, LLC,**

Defendants,

v.

**CAMBER ENERGY, INC.
(f/k/a LUCAS ENERGY, INC.)**

Nominal Defendant.

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) **Civil Action No. 5-17-CV-962-FB**
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) **Jury Trial Demanded**
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TO THE HONORABLE ELIZABETH CHESTNEY, UNITED STATES MAGISTRATE JUDGE:

Late in the afternoon of July 12, 2018, Defendants' counsel received Plaintiff's informal letter motion to the Court by ECF delivery. (Dkt No. 49) In that letter, Plaintiff's counsel requested several changes to this Court's July 12, 2018 Order. (Dkt. No. 48). First, Plaintiff's counsel sought revision of the order to extend the dispositive motion deadline for both parties. Second, Plaintiff's counsel suggested that Court set the deadline to September 4, 2018 – the day immediately after Labor Day.

Plaintiff was not content with informally suggesting to the Court that it correct its order to conform with an earlier ruling from the bench that extended the dispositive motion deadline for both parties. Instead, Plaintiff gratuitously elected to advance substantive

arguments on the merits of a yet-to-be-filed dispositive motion -- albeit without inclusion of competent evidence supporting his position or compliance with the requirements of Rule 56, F.R.Civ.P. Notably, Plaintiff's single-spaced letter motion also did not comply with Local Rule CV-7 requirements. Further, Plaintiff's letter was unaccompanied by a required certificate of conference and certificate of service.

For the record, Defendants do not oppose revision of the Court's July 12, 2018 Order to extend the dispositive motion deadline for both parties. Had Plaintiff's counsel conferred with Defendants' counsel on the matter as required by the local rules, Defendants gladly would have joined in submission of a request that the Court change its order extending the dispositive motion deadline for both parties. During such theoretical conference, Defendants' counsel also would have suggested placement of the deadline at a time several days after Labor Day, rather than immediately thereafter.

That said, the method and substance of Plaintiff's informal filing requires an immediate response rather than the customary seven (7) day time period for responding to a motion filed in compliance with Local Rule CV-7. Plaintiff's letter motion casually ignores local and federal rule substantive and procedural requirements for motions and freely injects important substantive arguments and claims not germane to the purported relief sought. Plaintiff's disregard for these rules is further compounded by the absence of evidence supporting Plaintiff's gratuitous arguments.

Directly to the point is Plaintiff renewed arguments that SEC filings and the absence of certain documents support Plaintiff's position on the factual and legal merits of this case. Notably, Plaintiff has not presented any evidence to support these in-court and on-paper arguments directed at disputed factual issues central to determination of this

case. Paradoxically, Plaintiff has attempted to extend and bolster these factual and legal arguments on the merits by asserting that Lacey and Lisa did not engage in certain loan practices while simultaneously arguing that additional discovery is required to obtain documentary and testimonial evidence supporting Plaintiff's claims about those practices.

Defendants object to Plaintiff's efforts to improperly present unsubstantiated arguments regarding the ultimate merits of this case in an informal filing that disregards long-established mandatory rules of this Court for the processes for presenting contested non-dispositive and dispositive motions and their content. Making such arguments under the guise of seeking correction of a deadline for dispositive motions with an unabashed disregard of the substantive and procedural rules of this Court fosters the impression that Plaintiff seeks to unfairly influence this Court on critical substantive issues and prejudice Defendants' rights to procedural due process. The Court should not permit such a practice whether it is calculated or not.

Accordingly, Defendants respectfully request that the Court strike and disregard Plaintiffs substantive arguments concerning dispositive matters and improper tender of evidence to the Court for consideration. Defendants further respectfully request that the Court direct Plaintiff's counsel to comply with the substantive and procedural rules of this Court in all future filings and to confine Plaintiff's argument to substantive arguments related to the substance of the motion and supported by competent evidence to which Defendants can properly and timely respond.

Respectfully submitted,

William L. Sessions

William L. Sessions

Texas Bar No. 18041500

SESSIONS & ASSOCIATES, PLLC

14951 North Dallas Parkway-Suite 400

Dallas, Texas 75254

General Telephone: (214) 445-4055

Direct Telephone: (214) 217-8855

Facsimile: (214) 723-5346

Email: lsessions@sessionslaw.net

COUNSEL FOR DEFENDANTS

RICHARD N. AZAR, II, RAD2 MANAGEMENT,

LLC, RAD2 MINERALS, LTD., AND

SECUNDO RESOURCES, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was electronically filed with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

miriamtauberlaw@gmail.com

Miriam Tauber
Miriam Tauber Law, PLLC
885 Park Avenue-Suite 2A
New York, New York 10075

davidlopezesq@aol.com

David Lopez
Law Offices of David Lopez
P.O. Box 323
171 Edge of Woods Road
Southampton, New York 11968

timjhenderson@msn.com

Timothy J. Henderson
6400 West Loop South-Suite 280
Bellaire, Texas 77401-2905

July 12, 2018
Date

William L. Sessions
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